



**sunshine
center**

of the North Carolina
Open Government Coalition

The Forecaster

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Parsons names Barnett Sunshine Center executive New director brings commitment, credentials to new role



Brooke Barnett
Executive Director of
the Sunshine Center

Dr. Paul Parsons, dean of the Elon University School of Communications, has named Dr. Brooke Barnett executive director of the Sunshine Center. Barnett is an accomplished scholar and member of the School's faculty who has substantial experience in professional media, including five years working for PBS — in addition to her academic credentials. Barnett takes the reins of the Sunshine Center with an eye toward serving the public.

"I am delighted to be assuming this role in the Sunshine Center," Barnett said. "Connie Book, the founding executive director, has been a tremendous mentor to me during my time at Elon, and I look forward to the chance to continue the important work that she started. The Sunshine Center serves a key role in the state in

helping the public to understand its rights."

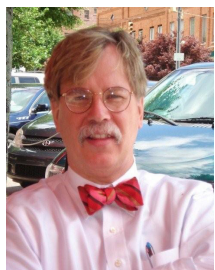
Barnett and Book have been working together since late summer to ensure a smooth transition in leadership. As an integral member of the Elon University leadership team, Barnett also serves as an administrative fellow and special assistant to university President Leo Lambert. Barnett's role in the president's office is to oversee "an unprecedented university commitment to diversity and global engagement," Lambert said in an August address to the university community. Book has been promoted to associate provost by Lambert.

"Brooke is a fabulous addition to our team," said NCOGC Board president Rick Willis. "I look forward to working with her to forward the education and fundraising goals of the Coalition."

Barnett co-edited "Communication and Law: Multidisciplinary Approaches to Research" and is co-author of "Terrorism and the Press: An Uneasy Relationship." She has also produced award-winning documentary films for public television.

Sunshine viewed from all sides at Asheville workshop Citizens, attorneys, politicians, journalists, public servants gather in Western Carolina for Sunshine Center fall workshop

An eclectic mix of professions and perspectives gathered Oct. 14 at the University of North Carolina at Asheville for the Sunshine Center's annual regional workshop held every autumn. The state's sunshine laws were analyzed by experts with views of open government from inside city hall, the newsroom, courtroom and higher education, among other perspectives.



Sam Fritschner and Phyllis McClure were among the presenters at the 2010 workshop.

Municipal officials from the cities of Hendersonville and Asheville and the town of Waynesville shared expert knowledge on best practices and the intricacies of the N.C. Public Records Law from the frontlines of open

government. Hendersonville City Clerk Tammie Drake and City Attorney Sam Fritschner, Waynesville Town Clerk Phyllis McClure, and Asheville City Attorney Robert Oast provided detailed presentations and answered numerous questions from the audience. Campbell University researchers Ed Johnson and Dan Maynard also presented results of a statewide public records audit, and Sunshine Center Assistant Director Dale Harrison briefly reviewed new transparency legislation in the state, which took effect Oct. 1.

Drake's presentation outlined both in-person and online public-records practices in Hendersonville, which several in attendance acknowledged as "a model for other cities to follow." The Sunshine Center conducts a regional workshop every autumn to help advance knowledge and understanding of open government laws and practices in North Carolina. The first fall workshop was held in Manteo in 2008. Greensboro was the site of the 2009 workshop.

By the Numbers

OpenTheGovernment.org recently released its annual Secrecy Report Card. OpenTheGovernment bills itself as a “coalition of consumer and good government groups, librarians, environmentalists, labor, journalists and others united to push back governmental secrecy and promote openness.” They prepare a yearly look at indicators of secrecy in the federal government.

President Barack Obama came into office promising transparency. While that talk is good, judge for yourself whether the accompanying action was as impressive.

OpenTheGovernment reports Freedom of Information Act requests declined 8 percent from 2008 to 2009 while the total cost of processing those requests rose 12 percent.

The federal government processed more FOIA requests than it received in 2009, reducing its backlog by almost 56,000.

President Obama invoked the state secrets privilege in four known cases in 2009. All the instances were continuing cases from former President George W. Bush’s administration.

David Cuillier is an assistant professor at the University of Arizona’s School of Journalism. He also chaired the national Freedom of Information Committee for the Society of Professional Journalists.

Speaking on transparency under President Obama, in May 2009, David told the Radio Television News Directors Association that “it’s always good when the leaders at the top stress transparency, and I think there’s a little trickle down that we might see from that. We’ve had eight years of secrecy engrained in the federal government, and trickling down to state and local governments, so it’s going to take a while to change that culture. I don’t think we’re going to see

The President’s Column

Rick
Willis



a lot of things turn around right away.”

In a recent e-mail exchange, David told me he “still feels the same way. Now I think we’re starting to see some indication that the new culture is having some effect. It takes time to turn that big ship.”

The statistics in the Secrecy Report Card seem to indicate some improvement on the processing of records. But Cuillier thinks “there will still be times when the president balks on releasing records that might be politically embarrassing (e.g., photos of torture, some sensitive White House e-mails). Every president hates to reveal information that reduces power.”

If Cuillier is right, and we are seeing the beginnings of a new culture in federal government, we can only hope the

trickledown theory takes hold. With few penalties for violating public records laws, there’s little incentive for government officials at any level to release information that may harm them at the ballot box.

Journalists and the public can attempt to force the issue with a FOI request. But the number of FOI requests dropped last year. That may be directly attributable to the dramatic reduction in people and resources in newsrooms across the country. The end result is fewer attempts to get information into the public’s hands.

And not all FOI requests are approved. Denied requests can be appealed, but only a third of such appeals are successful. A lawsuit is another option but that’s expensive and timely. Time and money are increasingly in short supply in the journalism industry.

The truth is in the numbers and one year is not a trend. We’ll keep a close eye on the Secrecy Report Card to see if President Obama not only talks the talk, but also walks the walk.

You can find the entire 2010 Secrecy Report Card at http://www.openthegovernment.org/otg/SecrecyRC_2010.pdf.

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Campbell professors reveal results of public records audit

By Ed Johnson & Dan Maynard

This research examined three questions: 1) how responsive North Carolina county officials are to requests for public documents, 2) whether officials in certain roles are more responsive than those in other roles, and 3) whether there is a relationship between counties' response rates and their different census demographics.

To gain this information, requests for four documents regarding specific state-funding school building projects were sent to all 100 county superintendent of schools, chair of the school board, county manager and chair of the county commissioner throughout the state.

Research results found the following response rate from county officials: 1) Officials in 26 counties responded with all four requested documents, 2) Officials in 41 counties responded with some, but not all four requested documents, 3) Officials in 25 sent responses, but sent none of the four requested documents, and 4) Officials in seven counties sent no response at all.

The research also found that 1) the average county provided about half the public documents requested, 2) officials in local schools are slightly more responsive than those in county governments, and 3) there are no strong relationships between counties' response rates and their demographics.

Because of the low and inconsistent response rates, the conclusion is that counties should publish online such public documents.

A valuable product of this research is a list of those county officials who responded to the public's request for public documents and another list of those officials who failed to respond all together. Further research (such as ethnography) should be done with the goal of finding factors to predict which officials are responsive. From these results a testable hypothesis could be developed.

To see the entire study, follow this link and select, "Read the research findings," in the upper right menu: <http://www.elon.edu/e-net/Note.aspx?id=945347>.

Learn some of the obstacles to government transparency

By Christopher Frear

You're not the enemy, but you are suspect to the clerk across the counter to be asking for a public record. You're certainly not a customer in the eyes of the agency manager when you come looking for salaries, registrations and vouchers.

In requesting a government record, it will save you time, money, aggravation or all of the above to understand better the clerk or manager you're asking for the document. A new book takes reporters inside the mindset of the public official, resulting in an understanding that can reduce headaches in seeking public records.

"Transparency and Secrecy" by Suzanne Piotrowski of Rutgers University captures the tension in government between the values of transparency and privacy, and the goals of security and efficiency, in a series of excerpts from books and documents.

"It is a continual fight for advocates for transparency. The very nature of bureaucracy and bureaucrats is to keep information closed," Piotrowski said in an interview.

In the most trenchant essay, one about whistleblowers and information leaks, Sissela Bok explains the pull of group loyalty, privacy and work-a-day operations on the typical government worker. Those powerful forces bar most people from blowing the whistle on bad or illegal actions but also act as a restraint on releasing documents to the inquiring public.

"Leadership does make a difference," Piotrowski said. "A leader committed to transparency sets the tone for the entire agency."

Piotrowski identifies four main obstacles to records access

in modern government administration:

Privacy. Municipal clerks at one conference in New Jersey agreed that, contrary to law, the public should not have access to dog license records, lest a burglar check records before planning break-ins. It's an understandable, if legally incorrect, draw to safeguard records from people who might pose a threat to the citizens they serve.

Piotrowski answers, "The larger issue is not gathering personal information on documents that don't need it for administration: a Social Security number, a phone number, an address. Then it's not being distributed."

Security. Police departments and school districts routinely use the need to protect the public as a reason for secrecy. Again, understandable, but in an essay, Thomas Blanton of the National Security Archive shows how secrecy leads more often to security failures and openness to success: Sept. 11, the Bay of Pigs, the capture of the Unabomber, the interruption of the millennial bombing plan. In the aftermath of World War II, he writes, the most articulate spokesmen for opening nuclear secrets to the public – to create greater security through more rapid advances – were the scientists who created the weapons.

Efficiency. Piotrowski explains in another essay how the drive in the late 1980s and 1990s to reform government by making it more results-oriented and businesslike left freedom of information behind as administrators were pushed for efficiency and better customer service. You don't need to be told that "most agencies do not view FOIA requesters as

See "Obstacles" on page 5

Fair play in public records debate produces unfair result for journalism professor at UNC-Chapel Hill

Turnabout is fair play. Right? Never thought too much about it in matters of public records. After all, everything concerning the public's business ought to be open for all to see, and there should only be a handful of exceptions. I preached this sermon most every day during a 35-year career in journalism.

That's that.

Well, I still feel that way. But I have a much better sensitivity to the other side after an experience this summer.

I teach broadcast journalism now at the University of North Carolina at Chapel Hill. And it was there in the second session of summer school that Dean Jean Folkerts came to see me.

Seems Tom Howe, director and general manager of UNC-TV, wanted us to review how his station had handled a series of reports concerning Alcoa, licensing agreements for power plants along the Yadkin River and some associated environmental issues.

UNC-TV had aired two parts of the three-part series unedited — left them in the control of the reporter — to quiet allegations the station was trying to suppress the story. Those allegations apparently were coming from some state legislators. The state is aching to get its hands on four very profitable power plants Alcoa operates along the river. The state is also a major source of revenue for UNC-TV.

Let's just say that the reports were critical of Alcoa. It's a long story. There is a lot of material available. Google it.

"I am interested in your collective opinion on whether these (news reports) meet universally accepted standards of journalism and whether you would have accepted them for broadcast," Howe wrote in an e-mail.

It didn't take long for our three-person committee to decide.

"It is our opinion there was a breakdown in the editorial process at UNC-TV — as well as the establishment of an unfortunate precedent — when management abdicated its responsibilities and allowed the reporter to control the final work product. The result was a series of stories proffering an apparent point of view unsupported by the facts."

That was that.

Our report had yet to be finished when things changed. Howe contacted Folkerts and said he no longer wanted it.

"Let's write it anyway," I said to Folkerts. "He may change his mind."

Commentary

Jim
Hefner



That was that.

"Thanks for calling me back," I heard my friend Hugh Stevens say on my cell phone as I drove from Southern Pines to Chapel Hill one glorious, early morning.

"I understand there is a report out of the journalism school concerning UNC-TV and those Alcoa stories. Just wanted to let you know as a courtesy I'm representing Alcoa and we're going to be asking for it."

I have known Hugh for years. He was our lawyer when I was general manager of WRAL-TV, and I had worked with him to help create the N.C. Open Government Coalition.

Don't remember much of what I said. It was X-rated. Not a public record, this ... Surely this is a work product, that ... Not my call, but I'll recommend ...

He was patient.

"Talk to you later."

Truth was I didn't know if the report was a public record or not. I didn't have much, if any, experience with state universities and the work of faculty.

No matter the law, however, it just didn't seem fair. It was perfectly fair and fine to me, the committee, the dean and the school. But it did not seem fair and fine to Tom Howe and UNC-TV.

"It's a public record, and I'm not going to be the dean of the journalism school who tries to keep things secret," Folkerts wisely said to me.

That was that.

Alcoa made sure the report got out. It was picked up here and there and became part of the noise surrounding UNC-TV's handling of the story and other issues. The report and the rest of the noise were all part of a blinding headache of a summer for Tom Howe, I'm sure.

Did the public have a right to know what we said?

Absolutely.

Did that make me feel any better about it?

No.

I still don't think it was fair. And I hate to see faceless corporations use the people's Public Records Law for its own unknowable purposes.

But I know we can't confuse what's fair and what's the law.

And that is that.

Jim Hefner serves on the Board of Directors for the NCOGC and is its former president. He is also a member of the faculty in the School of Journalism and Mass Communication at UNC-Chapel Hill.

Obstacles continued from Page 3

customers,” but she shows why costs for records in many states were increased and why records requests were shunted to the bottom of the pile.

Outsourcing. Also part of the government reform effort for cost savings, outsourcing of services and record-keeping has created another, newer set of problems for records requesters: “It’s not in this office.” Piotrowski answers that the same standards must be applied to information wherever it is housed.

When approaching a records clerk, put the burden where it belongs: on the government agency. Whether the objection to releasing the record rises from privacy, security, efficiency or outsourcing, the best question a reporter can ask is, “Where does the law say that this record can be held secret?”

Piotrowski writes, “In many cases, (the records officers) want to release the information. They just need a reason to do it.”

Visiting the records keeper in person with a respectful, knowledgeable demeanor is often all the reason that’s needed.

“Transparency and Secrecy” offers just the kind of detailed, thorough consideration of issues needed in public discussions. Piotrowski provides fully rounded arguments rather than talking points and buzzwords, allowing the reader to hear the clerk on the other side of the counter. That just might make your next visit less aggravating and more successful.

Christopher Frear of Flat Rock is a former daily newspaper editor in Pennsylvania and New Jersey.



Nina Totenberg, NPR news correspondent, delivered the keynote address at the Elon School of Law in Greensboro.



Ames Alexander of the Charlotte Observer, **Dick Barron** of the (Greensboro) News & Record and **Andy Curliss** of the (Raleigh) News & Observer explained how public records helped fuel their in-depth reporting.



Pennsylvania Investigative Reporter **Matt Belanger** and Syracuse Professor **Jasmine McNeely** spoke on a panel about journalism and access issues.



Sandy Semans, managing editor of the Outer Banks Sentinel, was a recipient of the 2009 NCOGC Sunshine Award.